

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COMMISSIONER OF COMMERCE

In the Matter of the Securities Agent
License of Emmanuel George Kavekos,
CRD No. 2794227

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

The above-entitled matter came on for prehearing conference before Administrative Law Judge Barbara L. Neilson on February 25, 2000, at 1:30 p.m. at the Office of Administrative Hearings in Minneapolis, Minnesota. David M. Aafedt, Assistant Attorney General, NCL Tower, Suite 1200, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, appeared on behalf of the Department of Commerce ("the Department"). There was no appearance by or on behalf of the Respondent, Emmanuel George Kavekos, 1170 Gator Trail, West Palm Beach, FL 33409. The record closed upon receipt of an affidavit from the Department on February 29, 2000.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner of Commerce will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact the Office of the Commissioner of Commerce, 133 East Seventh Street, St. Paul, Minnesota 55101 (telephone: 651-296-6694) to ascertain the procedure for filing exceptions or presenting argument.

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STATEMENT OF ISSUE

The issue in this case is whether Emmanuel George Kavekos failed to comply with requests for information, documents, or other requests from the Department within the time specified, in violation of Minn. Stat. §§ 45.027, subd. 1a and 80A.07, subd. 1(2) and (13); effected transactions in the account of a customer without the customer's knowledge and thereby engaged in a manipulative, fraudulent, or deceptive device or contrivance in violation of Minn. Stat. § 80A.03 and Minn. R. 2875.1050; failed to make suitable recommendations on the basis of facts disclosed by the customer as to his financial situation and his needs in violation of Minn. R. 2875.0910, subp. 2; failed to

comply with the SEC's rules for certain low price securities and thereby failed to observe high standards of commercial honor and just and equitable principles of trade in violation of Minn. Stat. § 80A.07, subd. 1(2), and Minn. R. 2875.0910, subp. 1; and/or engaged in fraudulent or dishonest practices in the securities business in violation of Minn. Stat. § 80A.07, subd. 1(7); and, if so, whether the securities agent license of Mr. Kavekos should be revoked, suspended, or otherwise disciplined and whether he should be subject to civil penalties pursuant to Minn. Stat. §§ 45.027, subds. 6 - 7, and 80A.07.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. Emmanuel George Kavekos has been licensed in Minnesota as a securities agent of Baxter, Banks & Smith since November 19, 1998 (License No. 2794227). Baxter, Banks & Smith has been licensed as a securities broker-dealer in Minnesota since March 11, 1998.

2. The Notice of and Order for Hearing and Order for Prehearing Conference in this matter was served upon the Respondent by United States first class mail and Federal Express on January 21, 2000, at 1170 Gator Trail, West Palm Beach, FL 33409. Neither envelope was ever returned to the Minnesota Attorney General's Office. The envelope sent via Federal Express was signed by "E. George." (Affidavit of David M. Aafedt at ¶¶ 5-7.)

3. The Notice of and Order for Hearing and Order for Prehearing Conference served on the Respondent contained the following informational notice:

If Respondent fails to attend or otherwise appear at any prehearing conference or settlement conference or the hearing in this matter or fail to comply with any interlocutory order of the judge after having been served with a copy of this Order, Respondent shall be deemed in default and the allegations or issues set forth herein may be deemed proved and Respondent's securities broker-dealer license may be revoked, suspended or censured and/or a civil penalty may be imposed against Respondent without further proceedings.

(Emphasis in original.)

4. The Respondent did not file any Notice of Appearance with the Administrative Law Judge or make any request for a continuance or any other relief. The Respondent did not appear at the prehearing conference scheduled for February 25, 2000, or have an appearance made on his behalf. The Respondent also did not contact the Administrative Law Judge between February 25, 2000, and the date on which this Report was issued.

5. Because the Respondent failed to appear at the hearing in this matter, he is in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice

of and Order for Hearing and Order for Prehearing Conference are hereby taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Minnesota Department of Commerce and the Administrative Law Judge have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50, 45.027, and 80A.07.

2. The Department has given proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law and rule.

3. The Respondent, having made no appearance at the hearing, and not requesting any continuance or relief, is in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice of and Order for Hearing and Order for Prehearing Conference are hereby taken as true.

4. The Respondent has violated Minn. Stat. §§ 45.027, subd. 1(a), 80A.03, and 80A.07, subd. 1(2), (7), and (13), and Minn. R 2875.0910, subps. 1 and 2, and 2875.1050(C). The Respondent is subject to discipline and/or civil penalties pursuant to Minn. Stat. §§ 45.027, subds. 6 and 7, and 80A.07.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED that the Commissioner of Commerce take disciplinary action against the securities agent license of Emmanuel George Kavekos and impose an appropriate civil penalty.

Dated: March 3, 2000

BARBARA L. NEILSON
Administrative Law Judge

Reported: Default.

NOTICE OF AGENCY DECISION

Under to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

